



CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 12-C0009]

Haier America Trading, LLC, Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission

ACTION: Notice

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the Federal Register in accordance with the terms of 16 C.F.R. 1118.20(e). Published below is a provisionally-accepted Settlement Agreement with Haier America Trading, LLC, containing a civil penalty of \$850,000.00, within twenty (20) days of service of the Commission's final Order accepting the Settlement Agreement.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by (insert date that is 15 calendar days from publication date).

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 12-C0009, Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Room 820, Bethesda, Maryland 20814-4408.

FOR FURTHER INFORMATION CONTACT: Belinda V. Bell, Trial Attorney, Division of Compliance, Office of the General Counsel, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814-4408; telephone (301) 504-7592.

SUPPLEMENTARY INFORMATION: The text of the Agreement and Order appears below.

September 13, 2012

(Date)

Todd A. Stevenson

Secretary

**UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION**

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In the Matter of:)	
)	
)	CPSC Docket No.: <u>12-C0009</u>
HAIER AMERICA TRADING, LLC)	
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SETTLEMENT AGREEMENT

1. In accordance with the Consumer Product Safety Act, 15 U.S.C. 2051-2089 (“CPSA”) and 16 C.F.R. 1118.20, Haier America Trading, LLC (“Haier America”) and staff of the United States Consumer Product Safety Commission (“staff” and “Commission”) hereby enter into this Settlement Agreement (“Agreement”). The Agreement and the incorporated attached Order resolve staff’s allegations set forth below.

THE PARTIES

2. Staff is the staff of the Commission, an independent federal regulatory agency established pursuant to, and responsible for, the enforcement of the CPSA, 15 U.S.C. 2051–2089.

3. Haier America is a limited liability company, organized and existing under the laws of the State of New York, with its principal corporate office located at 1356 Broadway, New York, NY.

STAFF ALLEGATIONS

4. Between October 2006 and October 2009, Haier America distributed in commerce, including through importation and sale to retailers, approximately 53,800 electric

blenders (“Blenders”). The Blenders were sold at retail stores in the United States for between \$25 and \$60.

5. The Blenders are “consumer products” and, at all relevant times, Haier America was an “importer” of these consumer products, which were “distributed in commerce,” as those terms are defined or used in sections 3(a)(5), (8), and (11) of the CPSA, 15 U.S.C. 2052(a)(5), (8), and (11).

6. The Blenders are defective because the nut holding the blade assembly can dislodge during use, allowing the blade assembly pieces to break apart, and/or crack the Blenders’ glass jar, posing a laceration hazard to consumers.

7. From January 2007 through September 2009, Haier America received approximately 56 incident reports regarding the Blenders, including a report of an injury to a consumer’s hand.

8. Haier America had obtained sufficient information to reasonably support the conclusion that the Blenders contained a defect which could create a substantial product hazard, or that the Blenders created an unreasonable risk of serious injury or death. Haier America was required to inform the Commission immediately of such defect or risk, as required by sections 15(b)(3) and (4) of the CPSA, 15 U.S.C. 2064(b)(3) and (4).

9. Despite having information regarding the Blenders’ defect, Haier America did not file its Full Report with the Commission until October 8, 2009. Haier America recalled the Blenders on December 2, 2009.

10. In failing to inform the Commission about the Blenders immediately, Haier America knowingly violated section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4), as the term “knowingly” is defined in section 20(d) of the CPSA, 15 U.S.C. 2069(d).

11. Pursuant to section 20 of the CPSA, 15 U.S.C. 2069, Haier America is subject to civil penalties for its knowing failure to report, as required under section 15(b) of the CPSA, 15 U.S.C. 2064(b).

RESPONSE OF HAIER AMERICA TRADING, LLC

12. Haier America denies the Staff's allegations, including, but not limited to, that the Blenders contain a defect that could create a substantial product hazard or create an unreasonable risk of serious injury or death, and that Haier America failed to timely notify the Commission in accordance with Section 15(b) of the CPSA, 15 U.S.C. 2064(b).

13. Haier America notified CPSC upon discovering that a nut securing the blade assembly had not been consistently tightened during production of certain units of the Blenders. Haier America was (and is) aware of only one report of a minor cut to a consumer's hand, associated with the reported issue, which did not require medical attention. Haier America conducted a voluntary recall of the Blenders to replace the blade assembly pursuant to CPSC's Fast Track recall program, acting to reduce the risk of injury, in furtherance of its customers' best interests.

AGREEMENT OF THE PARTIES

14. Under the CPSA, the Commission has jurisdiction over this matter and over Haier America.

15. In settlement of staff's allegations, Haier America shall pay a civil penalty in the amount of \$850,000.00 within 20 calendar days of receiving service of the Commission's final Order accepting the Agreement. The payment shall be made electronically to the CPSC via www.pay.gov.

16. The parties enter into this Agreement for settlement purposes only. The Agreement does not constitute an admission by Haier America, nor does it constitute a determination by the Commission, that Haier America violated the CPSA's reporting requirements.

17. In consideration of Haier America's payment, the Commission agrees to release Haier America, as well as its current and former directors, officers, employees, agents and representatives from any civil claim that the Commission has or may have against those parties arising out of or relating to the recall of the Blenders announced on December 2, 2009, or the Staff's allegations that Haier America failed to report in a timely manner a potential hazard involving the Blenders.

18. Upon provisional acceptance of the Agreement by the Commission, the Agreement shall be placed on the public record and published in the *Federal Register* in accordance with the procedures set forth in 16 C.F.R. 1118.20(e). If the Commission does not receive any written request not to accept the Agreement within 15 calendar days, the Agreement shall be deemed finally accepted on the 16th calendar day after the date it is published in the *Federal Register*, in accordance with 16 C.F.R. 1118.20(f).

19. Upon the Commission's final acceptance of the Agreement and issuance of the final Order, Haier America knowingly, voluntarily, and completely waives any rights it may have in this matter to the following: (a) an administrative or judicial hearing; (b) judicial review or other challenge or contest of the Commission's actions; (c) a determination by the Commission of whether Haier America failed to comply with the CPSA and the underlying regulations; (d) a statement of findings of fact and conclusions of law; and (e) any claims under the Equal Access to Justice Act.

20. The Commission may publicize the terms of the Agreement and the Order.

21. The Agreement and the Order shall apply to, and be binding upon, Haier America and each of its successors and/or assigns.

22. The Commission issues the Order under the provisions of the CPSA, and a violation of the Order may subject Haier America and each of its successors and/or assigns to appropriate legal action.

23. The Agreement may be used in interpreting the Order. Understandings, agreements, representations, or interpretations apart from those contained in the Agreement and the Order may not be used to vary or contradict the terms of the Agreement and the Order. The Agreement shall not be waived, amended, modified, or otherwise altered without written agreement thereto, executed by the party against whom such waiver, amendment, modification, or alteration is sought to be enforced.

24. If any provision of the Agreement or the Order is held to be illegal, invalid, or unenforceable under present or future laws effective during the terms of the Agreement and the Order, such provision shall be fully severable. The balance of the Agreement and the Order shall

remain in full force and effect, unless the Commission and Haier America agree that severing the

provision materially affects the purpose of the Agreement and Order.

HAIER AMERICA TRADING, LLC.

Dated: 8/23/12

By: _____
Mary Ann G. Lemere, VP & General Counsel
Haier America Trading, LLC
1356 Broadway
New York, NY 10018

Dated: 8/28/12

By: _____
Eric A. Rubel, Esquire
Arnold & Porter, LLP
555 Twelfth Street, NW
Washington, DC 20004-1206
Counsel for Haier America Trading, LLC

U.S. CONSUMER PRODUCT SAFETY
COMMISSION STAFF

Cheryl A. Falvey
General Counsel

Mary B. Murphy
Assistant General Counsel

Dated: 9/4/12

By: _____
Belinda V. Bell
Trial Attorney
Office of the General Counsel

**UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION**

In the Matter of:

HAIER AMERICA TRADING, LLC

CPSC Docket No.: 12-C0009

ORDER

Upon consideration of the Settlement Agreement entered into between Haier America Trading, LLC (“Haier America”), and the U.S. Consumer Product Safety Commission (“Commission”) staff, and the Commission having jurisdiction over the subject matter and over Haier America, and it appearing that the Settlement Agreement and the Order are in the public interest, it is

ORDERED that the Settlement Agreement be, and is, hereby, accepted; and it is

FURTHER ORDERED, that Haier America shall pay a civil penalty in the amount of \$850,000.00 within 20 calendar days of receiving service of the Commission’s final Order accepting the Settlement Agreement. The payment shall be made electronically to the CPSC via www.pay.gov. Upon the failure of Haier America to make the foregoing payment when due,

interest on the unpaid amount shall accrue and be paid by Haier America at the federal legal rate of interest set forth at 28 U.S.C. 1961(a) and (b).

Provisionally accepted and provisional Order issued on the 13th day of September, 2012.

BY ORDER OF THE COMMISSION:

Todd A. Stevenson, Secretary
U.S. Consumer Product Safety Commission

[FR Doc. 2012-23043 Filed 09/18/2012 at 8:45 am; Publication Date: 09/19/2012]